IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

NASHWAN AL-RAMER ABDULRAZ (ISN 10026),	ZAQ,))
Petitioner,)
v.) Civil Action No. 17-cv-1928 (EGS)
DONALD J. TRUMP, et al.,)
Responder	its.)

MOTION TO STAY THE FILING OF JOINT STATUS REPORTS BECAUSE OF LAPSE IN APPROPRIATIONS

The United States of America hereby moves to stay the continuing requirement to file a bi-weekly Joint Status Report in the above-captioned case. The next Joint Status Report is due Thursday, January 10, 2019.

- 1. At the end of the day on December 21, 2018, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. The Department does not know when funding will be restored by Congress.
- 2. Although funding has not lapsed for the Respondents themselves, the President and Department of Defense officials who have been sued in their official capacities, funding has lapsed for the Department of Justice attorneys representing Respondents in this matter. Absent an appropriation, the Department of Justice attorneys representing Respondents are prohibited from working, even on a voluntary basis, except in very limited circumstances, including "emergencies involving the safety of human life or the protection of property." 31 U.S.C. § 1342.

- 3. Undersigned counsel for the Department of Justice therefore requests a stay of the continuing, bi-weekly requirement to file a Joint Status Report in this case until Congress has restored appropriations to the Department. Because of a parallel status-report requirement in Petitioner's military-commission case, Petitioner's counsel—most if not all of whom are also counsel before Petitioner's military commission—will receive on a bi-weekly basis in that proceeding the same health-related information that is included in the Joint Status Report in this case. Additionally, because funding has not lapsed for the Department of Defense, counsel's ability to communicate with or to visit Petitioner through either military-commission or habeas procedures has not been affected by the lapse in the Department of Justice's appropriations.

 Thus, a stay will not impair Petitioner's counsel's ability to monitor Petitioner's health and, consequently, to bring any needed matter to the Court's attention.
- 4. If this motion for a stay is granted, undersigned counsel will notify the Court as soon as funds have been appropriated for the Department.
 - 5. Petitioner's counsel has authorized counsel for Respondents to state that:

Petitioner opposes a stay to excuse the filing of a bi-weekly status report. Petitioner does not oppose an order excusing Respondents from contributing to the status report for the duration of the lapse in appropriations, during which time Petitioner will file a unilateral bi-weekly status report that attaches the most recent SMO Declaration (which is issued every two weeks pursuant to order in the military commissions proceeding) and includes the other information required by the Court's Minute Order dated October 20, 2017. Petitioner also does not oppose Respondents' filing a reply to the bi-weekly report(s) at any time, before or after Government funding is restored.

For the reasons stated above, Respondents cannot agree with this proposal.

Therefore, although we greatly regret any disruption caused to the Court and the other litigants, Respondents hereby move for a stay of the biweekly Joint Status Reports in this case until Department of Justice attorneys are permitted to resume their usual civil litigation functions.

7 January 2019

Respectfully submitted,

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/s/ Ronald J. Wiltsie

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